

REMARKS

The courtesies extended by Examiner Monique Cole to Allan Fanucci during an interview on April 12, 2006 are noted with appreciation. The following comments are substantially in accordance with those that were presented and discussed during the interview.

Claims 6-13 and 21-32 remain in this application for the Examiner's review and consideration. These claims are directed to an alcohol free perfuming composition in the form of a transparent water-in-oil or oil-in-water emulsion that is capable of being sprayed. This emulsion comprises an aqueous phase and an oily phase containing at least 3% by weight of perfuming ingredients relative to the total weight of the composition. The difference between the density of the oily phase and that of the aqueous phase is less than or equal to 0.007, and the oily phase of the emulsion comprises a volatile fluorinated oil having a density higher than 1. The technical effect obtained by the use of this oil is to bring closer the densities of the respective phases of the emulsion. The prior art does not teach such compositions.

Claims 6-13 and 21-32 were again rejected for anticipation or in the alternative as being obvious over US patent 6,573,235 to Surbled et al. ("Surbled") for the reasons set forth on pages 2-4 of the action. Applicant traverses this rejection.

Applicant previously explained that claim 6 relates to a perfuming composition in the form of a transparent water-in-oil emulsion, and that Surbled does not teach or disclose this feature. In support of the comments made herein as well as those made in response to the prior Office action, a Rule 132 declaration of Mr. Pascal Beaussoubre is submitted herewith. Mr. Beaussoubre establishes the unobvious differences of the present claims over Surbled, and in particular that Surbled does not disclose emulsions stabilized by volatile fluorinated oils in the oily phase of the emulsion as recited in independent claim 6. This emulsion provides a much more elegant and economical solution to the replacement of ethanol in cosmetic or perfuming compositions compared to Surbled and permits the substantial reduction of the use of fluorinated compounds allowing for the presence of water as a continuous phase in the emulsion. This enables the present invention to be an advantageous improvement over the known transparent emulsions. In fact, it has been discovered that the addition of a certain ingredient to the oily phase of the emulsion makes it possible to narrow the difference between the respective densities of the two phases, so as to bring it within the claimed limit, namely lower or equal to 0.007, or

even 0.005 in the preferred embodiments. By providing means for acting on the relative densities of both phases, namely a volatile fluorinated oil, the resulting emulsion is stabilized.

There is nothing in Surbled that suggests the use of other than hydrofluoro ethers as solvents for the aromatic compounds. There is nothing in this patent that proposes or suggests emulsions as a vehicle for perfuming ingredients or fragrances. Furthermore, Surbled teaches away from the use of emulsions or other additives in the hydrofluoroethers. For example, in Example 5, line 8-10, Surbled looks carefully on the occurrence of a second phase, such second phase being “a consequence of the insolubility of the essential oil in the ENFB” (ethoxy nonafluorobutane). This illustrates that Surbled requires that the perfuming ingredients (here, natural extracts, essential oils) are well miscible with the solvents and that the occurrence of more than one phase, which would be the case in an emulsion, is to be strictly avoided according to Surbled. Consequently, by seeking to avoid multi-phase systems like emulsions, Surbled completely teaches against emulsions containing volatile fluorinated oils in compositions as does the present invention.

In summary, the teaching of Surbled is based on simply replacing ethanol in cosmetic compositions by hydrofluoro ethers. This does neither disclose, nor suggest or make obvious to the skilled person much more complex systems like emulsions, let alone transparent emulsions. The use of transparent emulsions is a further distinction of the present invention, and transparent emulsions are highly useful in perfumery products, as they enable the perfuming ingredients to be added without visible detection. With the viscosity of the formulations being relatively low, the formulation can be sprayed without visible residues. As noted at the interview, these comments are supported by a Rule 132 declaration of Mr. Beaussoubre. This evidence further supports the patentability of the present claims.

In view of the foregoing, it is believed that the rejection based on Surbled has been overcome and should be withdrawn. Accordingly, the entire application is now believed to be in condition for allowance, early notice of which would be appreciated.

Respectfully submitted,

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for: Julie Slin (Reg. No. 57,073)
Allan A. Fanucci (Reg. No. 30,256)

WINSTON & STRAWN LLP
Customer No. 28765

212-294-3311